

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2337

IN THE MATTER OF:

Served May 18, 1982

Application of WEBB TOURS, INC.,)
for Temporary Authority to Use)
Double Deck Buses Under Certificate)
No. 33, Part C)

Case No. AP-82-05

By application filed April 6, 1982, as supplemented April 16, 1982, Webb Tours, Inc., seeks temporary authority to use double-deck buses to conduct shuttle service under Part (C) of its Certificate of Public Convenience and Necessity No. 33 in addition to the 15-passenger vans currently in use.

Webb's Certificate No. 33 specifies authority as follows:

IRREGULAR ROUTES:

- A. CHARTER OPERATIONS, round-trip sightseeing or pleasure tours, between points in the Metropolitan District.
- B. SPECIAL OPERATIONS, limited to sightseeing or pleasure tours,
 - (1) between points in the District of Columbia, City of Alexandria, Virginia, and Arlington County, Virginia;
 - (2) from points in the District of Columbia to Mount Vernon, Virginia, and return.
- C. SPECIAL OPERATIONS, limited to shuttle service for patrons of sightseeing or pleasure tours authorized in B above, as an incidence thereto and not to include any sightseeing, from points in the Metropolitan District to join such sightseeing or pleasure tours as authorized herein, and return.

RESTRICTIONS

1. Service authorized in A and B above is restricted to the performance of such operations in British manufactured double-deck buses; provided, however, that performance of such operations may be in leased conventional bus vehicles when British manufactured double-deck buses are inoperative, and further provided that the carrier file with the Commission within five days of each leasing of conventional equipment, a written statement setting forth the date and service for which the conventional equipment was leased and the reason therefor.
2. Service authorized in C above is restricted to the performance of such operations in vehicles with a manufacturer's designed maximum seating capacity of not more than 15 passengers, excluding the driver.

The authority sought herein would essentially add use of a double-deck bus to Part C of Webb's certificate, removing the second restriction.

Webb asserts that authority to use double-deck buses on the shuttle service in Part C of the certificate would ". . . maximize efficiency and, avoid the expense and duplication of effort and equipment that is inherent in transporting customers to the sightseeing tours by vans instead of using double-deck buses only." Webb further states that this modification of service will be in the public interest because it will allow customers to receive service without having to change equipment and will promote more orderly service when there is a demand for a vehicle seating more than the van is capable of transporting. Applicant points out that at the time of its original application it operated only one double-deck vehicle whereas it now has seven such vehicles, rendering the equipment restriction inappropriate. Webb names Philip Pearson trading as Milling Tours as a carrier who may be affected by a grant of the sought certificate modification.

In support of the application, managers of the Holiday Inn and Howard Johnson's Motor Lodge, both located on Richmond Highway, south of the Alexandria City-Fairfax County boundary line, submitted similar affidavits stating that Webb originates daily service in a van from their respective hotels. They opine that it would be in the public interest for Webb to use larger vehicles inasmuch as there are often more than 15 people who use the shuttle-van service from the various local hotels to join up with the tour in Alexandria City, necessitating at least two van trips and an inconvenient waiting period for hotel guests.

Philip Pearson trading as Milling Tours entered a protest to the application stating that "[i]n the past permission for operation of any vehicle larger than fifteen passenger vans was denied Milling Tours." ^{1/} Pearson also asserts that business in the area south of Alexandria (where the two carriers both operate) has not increased to the extent that vehicles other than vans are warranted.

Title II, Article XII, Section 4(d)(3) of the Compact provides that ". . . the Commission may, in its discretion and without hearings or other proceedings, grant temporary authority . . ." to ". . . enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need. . . ."

Weighing the evidence of record in light of these criteria, the Commission finds that applicant has failed to establish that such need for service is immediate and urgent in nature. The evidence regarding the promotion of efficient operations is self-serving in nature and, while efficiency is a laudable goal, it is not a self-sufficient basis for a grant of temporary authority. Similarly, the level of support from the two Alexandria hotels does not establish the immediate and urgent need for service. The ability of Webb to provide pickup service in a large (double-deck) vehicle may be of some convenience for hotel guests. Given, however, the limited distance between the involved motels and the Alexandria City limits and the lack of any detail regarding how often customers might exceed the capacity of a van, ^{2/} we are not persuaded that the expressed need for large-vehicle service meets the standards set forth by the Compact for granting temporary authority. Reference by applicant and supporting witnesses to the standard of "public interest" is misplaced in this instance. The "public interest" is a less stringent criterion than those mandated for determining temporary authority applications. The standards quoted above for granting temporary authority applications require a higher level of proof than has been met in this case.

^{1/} In Order Nos. 1665 and 2000, served March 29, 1977, and June 6, 1979, respectively, the Commission found that Milling Tours could not provide bus service by chartering buses from companies without appropriate authority, or by using Metro for special operations service.

^{2/} We note that special operations account for less than three percent of Webb's operating revenues.

In this proceeding, the interests of Milling Tours must also be taken into consideration. While the point of the allegation concerning previous Commission denial of authority for Milling to use motor coach equipment is not precise, there is insufficient evidence of record herein to warrant a modification of Webb's authority, and we do not reach the question whether doing so would disrupt the balance now in effect in the area where these two carriers compete.

In addition, the argument advanced by Webb regarding potential operating efficiency by substituting double-deck equipment for its shuttle-van service is contrary to the position taken in its initial application for authority. In Application No. 894 Webb sought authority to transport its per-capita sightseeing patrons from points in the Metropolitan District to the area served by its sightseeing service. Webb proposed to perform this shuttle operation in vans, stating that use of conventional van vehicles was more economical and efficient than use of double-deck buses. 3/

THEREFORE, IT IS ORDERED that the above-captioned application of Webb Tours, Inc., is hereby denied.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS CLEMENT, SCHIFTER AND SHANNON:


WILLIAM H. MCGILVERY
Executive Director

3/ See Order No. 1563, served June 1, 1976, at page 2.